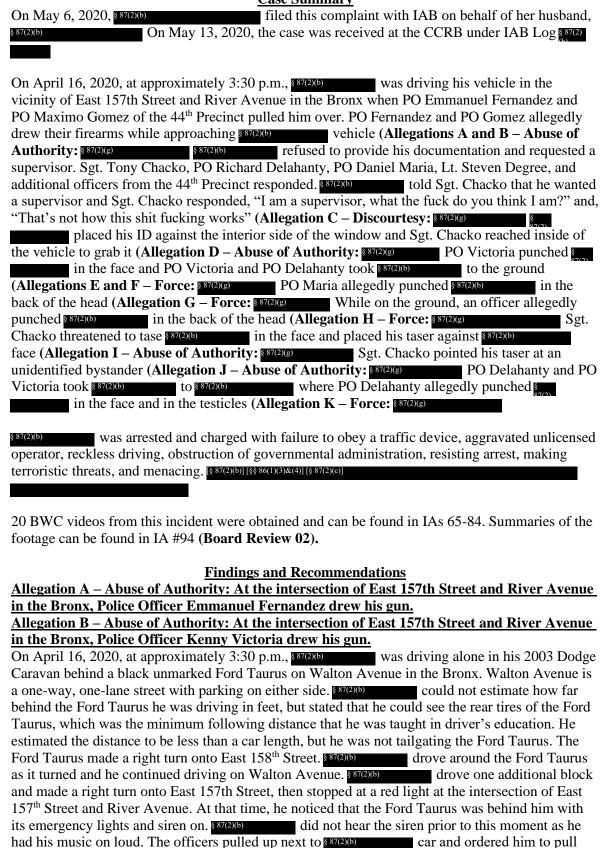
CCRB INVESTIGATIVE RECOMMENDATION

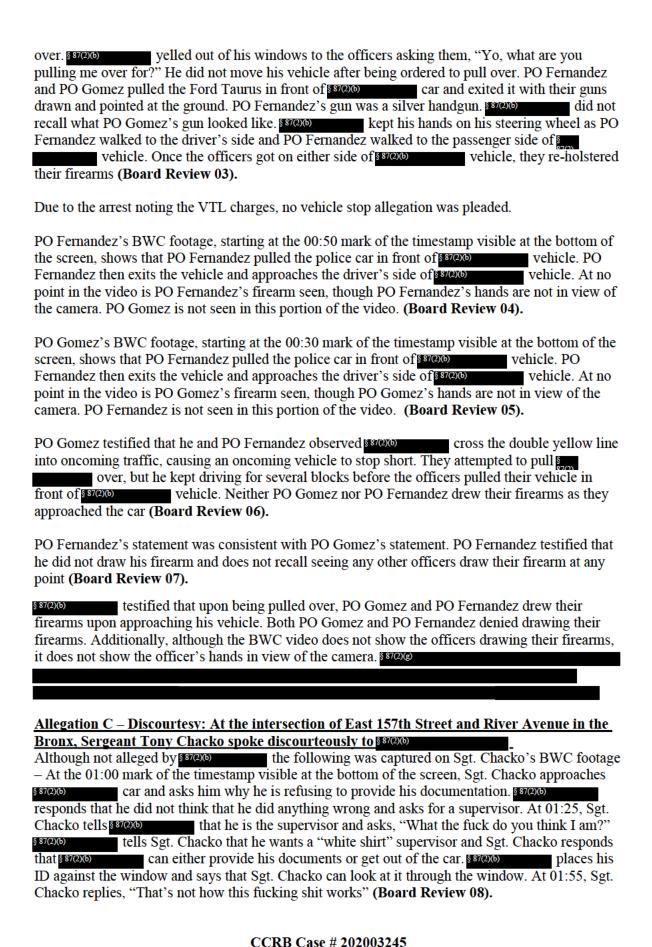
Investigator:		Team:	CCRB Case #:	✓ Force	Discount	☐ U.S.
				I_	_	-
Thomas Juliano		Squad #6	202003245	✓ Abuse	e 🔲 O.L.	✓ Injury
Incident Date(s)		Location of Incident:		Precinc	t: 18 Mo. SOL	EO SOL
Thursday, 04/16/2020 3:30 PM, 04/16/2020 5:30 PM	Thursday,	East 157th Street and F § 87(2)(b)	River Avenue;	44	10/16/2021	5/4/2022
Date/Time CV Reported		CV Reported At:	How CV Reported	l: Date/T	ime Received at CCI	RB
Wed, 05/06/2020 9:54 AM		IAB	Phone	Wed, (05/13/2020 11:29 AM	М
Complainant/Victim	Type	Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. POM Maximo Gomez	06426	958643	044 PCT			
2. POM Richard Delahanty	13491	961732	044 PCT			
3. POM Kenny Victoria	21225	960051	044 PCT			
4. POM Daniel Maria	22210	954096	044 PCT			
5. An officer						
6. SGT Tony Chacko	01880	946848	BX SVS			
7. POM Emmanuel Fernandez	16823	950402	044 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. POM Michael Meneses	11225	964654	044 PCT			
2. LT Steven Degree	00000	943141	NARCBBX			
3. PO Nicole Spinelli	12688	961320	INT FIO PRG			
Officer(s)	Allegation	on		I	nvestigator Recon	nmendation
A.POM Emmanuel Fernandez	Avenue	Abuse: At the intersection of East 157th Street and River Avenue in the Bronx, Police Officer Emmanuel Fernandez drew his gun.				
B.POM Maximo Gomez		Abuse: At the intersection of East 157th Street and River Avenue in the Bronx, Police Officer Maximo Gomez drew				
C.SGT Tony Chacko	River Av	Discourtesy: At the intersection of East 157th Street and River Avenue in the Bronx, Sergeant Tony Chacko spoke discourteously to \$87(2)(0)				
D.SGT Tony Chacko	Avenue	At the intersection of East in the Bronx, Sergeant T n which ^{§ 87(2)(6)}		ed the		
E.POM Kenny Victoria	Avenue	t the intersection of Eas in the Bronx, Police Off force against § 87(2)(6)				
F.POM Richard Delahanty	Avenue	t the intersection of Easin the Bronx, Police Off force against §87(2)(0)				

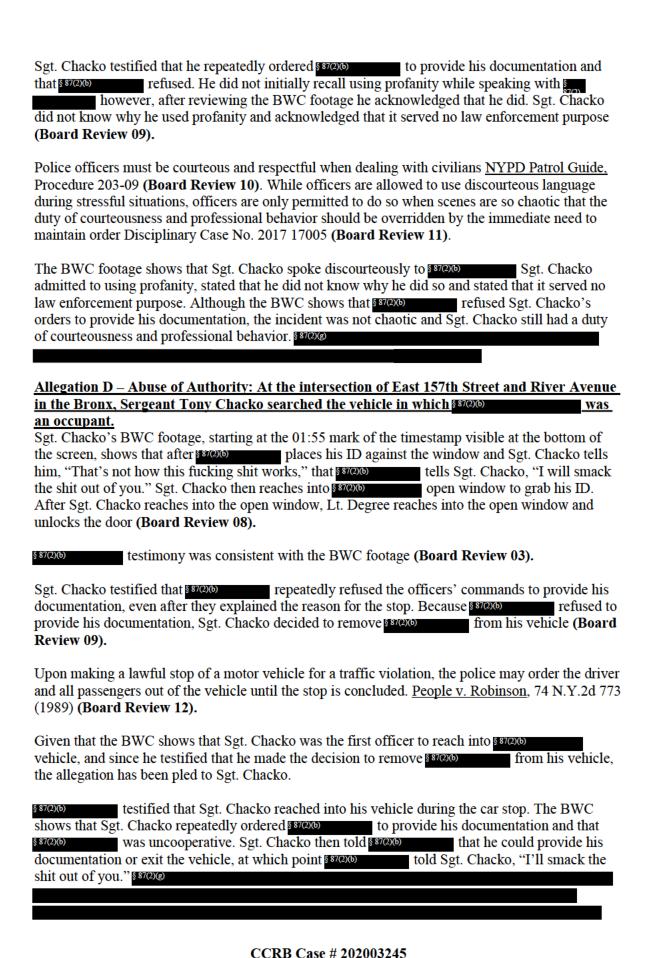
Officer(s)	Allegation	Investigator Recommendation
G.POM Daniel Maria	Force: At the intersection of East 157th Street and River Avenue in the Bronx, Police Officer Daniel Maria used physical force against \$\frac{887(2)(6)}{2}\$	
H. An officer	Force: At the intersection of East 157th Street and River Avenue in the Bronx, an officer used physical force against \$87(2)(b)	
I.SGT Tony Chacko	Abuse: At the intersection of East 157th Street and River Avenue in the Bronx, Sergeant Tony Chacko threatened with the use of force.	
J.SGT Tony Chacko	Abuse: At the intersection of East 157th Street and River Avenue in the Bronx, Sergeant Tony Chacko threatened an individual with the use of force.	
K.POM Richard Delahanty	Force: At \$87(2)(b) Police Officer Richard Delahanty used physical force against \$87(2)(b)	

Case Summary



CCRB Case # 202003245





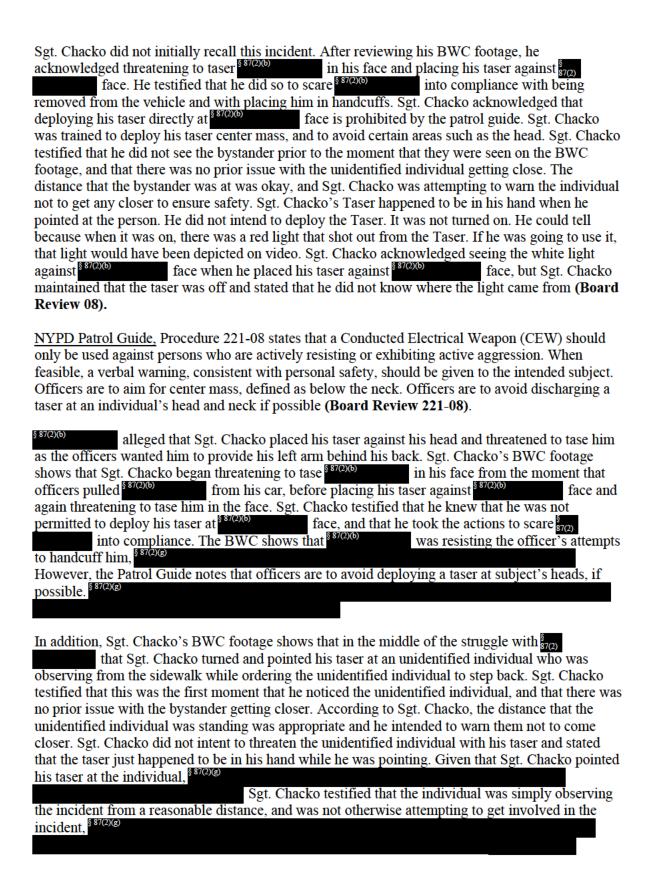
Allegation E – Force: At the intersection of East 157th Street and River Avenue in the Bronx,
Police Officer Kenny Victoria used physical force against 887(2)(0)
<u>Allegation F – Force: At the intersection of East 157th Street and River Avenue in the Bronx,</u>
Police Officer Richard Delahanty used physical force against
Allegation G - Force: At the intersection of East 157th Street and River Avenue in the Bronx,
Police Officer Daniel Maria used physical force against \$87(2)(6) testified that after the officers opened his door, PO Victoria punched \$87(2)(6)
in the mouth causing \$87(2)(a) lip to bleed. The officers did not order \$87(2)(a) to step
out of the vehicle nor did they provide with an opportunity to step out of the car
voluntarily. PO Victoria reached in the car, unbuckled seatelt, and punched him in
the right side of his face. PO Maria entered (\$870)(0) car from the passenger side and
in the back of the head while officers grabbed significantly by the collar
of his hoodie and pulled him out of the car through the driver's door, causing \$57(2)(6)
hoodie to rip. PO Victoria and PO Delahanty slammed \$87(2)(6) onto the ground next to the
car (Board Review 03).
PO Victoria's BWC footage, starting at the 03:45 mark of the timestamp visible at the bottom of the
screen, shows that after the officers opened car door, PO Victoria repeatedly orders
to get out of the car while he grabs \$87(2)(b) pushes back
against PO Victoria with his hands and remains in the vehicle. PO Maria is seen in the passenger
seat pushing out through the driver's door. PO Delahanty, seen wearing a blue baseball hat, grabs from the driver's side doorway and pulls on At
Daseball nat, grabs \$8000 From the driver's side doorway and pulls on \$8000 At
03:54, PO Victoria's closed fist strikes (100) in his right shoulder at the base of his neck. At 03:55, PO Victoria strikes (100) with a closed fist in the right side of his forehead. At 03:56, PO Victoria strikes (100) with a closed fist a third time in the lower right side of
03:56 PO Victoria strikes \$3000 with a closed fist a third time in the lower right side of
face. PO Victoria and PO Delahanty then pull \$870,000 to the ground. The
video does not show PO Maria striking \$87(2)(6) (Board Review 13).
(2 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3
PO Maria's BWC footage, starting at the 01:10 mark of the timestamp visible at the bottom of the
screen, shows that after the officers opened the driver's side door, PO Maria entered the passenger
side door, unbuckled seat belt, and assisted the officers in pushing seat belt, and assisted the officers in pushing seat belt.
out of the vehicle. At no point is PO Maria seen striking (Board Review 14).
PO Victoria testified that he responded to the location after PO Fernandez and PO Gomez called for
additional units. Upon arriving on scene, he saw that the police car was pulled in front of
vehicle. The officers told PO Victoria that they attempted to pull over \$87000
vehicle for a VTL infraction and that \$87(2)(6) refused to pull over and refused to provide his documentation. Given the circumstances, PO Victoria was concerned that \$87(2)(6) would use
his car as a weapon. § \$7(2)(b) was under arrest for the VTL infraction and for not providing
his identification. An officer opened \$87(2)(0) car door and an officer ordered \$87(2)(0)
to get out of the car and \$87(2)(6) refused by ignoring the command and tensing his body. PO
Victoria, PO Delahanty, and other officers pulled \$30000 out of the car. PO Victoria did not
recall punching \$87(2)(b) After \$87(2)(b) was removed from the car, the officers
controlled his arms and pulled him to the ground in a controlled manner to place him in handcuffs.
The officers did not slam \$87(2)(0) onto the ground. After reviewing his BWC footage, PO
Victoria acknowledged that it showed him striking but PO Victoria did not have an
independent recollection of doing so. PO Victoria testified that based on the video, it appeared that
he did so to overcome \$87(2)(6) resistance. It was not PO Victoria's intention to strike
in the head, but due to his movement it was difficult to aim his strike elsewhere PO

CCRB CTS – Confidential Page 4

Victoria did not recall how many times he struck (Board Review 15).
driver's door. An officer, who PO Delahanty did not remember, reached in to take keys out of the ignition to prevent him from driving away. PO Delahanty did not remember what the officers did to remove from the car, but recalled that he held onto left arm. STOOD resisted the officers' attempts to remove him from the vehicle by applying opposite pressure to their attempts at pulling him out. PO Delahanty did not recall any officers striking STOOD (Board Review 16).
NYPD Patrol Guide, Procedure 221-01 states that when appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In determining whether the use of force is reasonable, members of service should consider the following: (Board Review 17),
A. The nature and severity of the crime or circumstances B. Actions taken by the subject
 C. The duration of the action D. The immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders
 E. Whether the subject is actively resisting custody F. Whether the subject is attempting to evade arrest by flight G. Number of subjects in comparison to the number of MOS H. Size, age, and condition of the subject in comparison to the MOS I. Subject's violent history, if known J. Presence of a hostile crowd or agitators K. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.
As noted in Allegations A and B, serono testified that he did not know that officers were pulling him over, and admitted to driving several blocks before PO Fernandez and PO Gomez forced him to pull over by pulling their vehicle in front of him. Furthermore, it is undisputed that refused to provide his documents to the officers, even after he requested a supervisor and the officers called one to the scene. Lastly, the BWC shows that threatened to "smack the shit" out of Sgt. Chacko and refused to exit the vehicle, and pushed back against PO Victoria after PO Victoria attempted to pull him out.
alleged that he was struck three times, twice by PO Victoria and once by PO Maria. The BWC shows that PO Victoria struck \$8000 three times, and does not show PO Maria or any other officer striking \$87000
Allegation H – Force: At the intersection of East 157th Street and River Avenue in the Bronx, an officer used physical force against 37(2)(6) alleged that once on the ground, an officer ordered him to place his hands behind his back while an officer punched \$37(2)(6) three times in the back of the head. \$37(2)(6) did

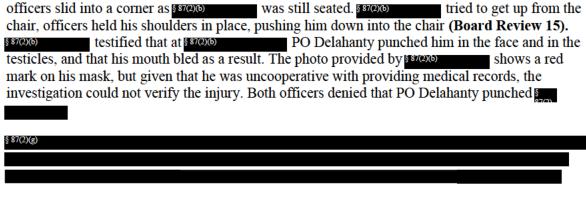
not see the officer and could not describe the officer.

was uncooperative in providing a signed HIPAA form to the investigation, and thus his medical records could not be obtained (Board Review 03). PO Nicole Spinelli's BWC footage, starting at the 02:16 mark of the timestamp visible at the bottom of the screen, shows several officers kneeling and standing around 87000 lying on the ground. At no point is any officer seen striking \$87(2)(6) though the view is obscured by the crowd of officers (Board Review 18). None of the BWC footage in this case captures officers striking [87(2)] while he is on the ground (Board Review 02). PO Victoria, PO Gomez, PO Fernandez, PO Delahanty, and Sgt. Chacko testified that they did not and did not observe any officers use any force on \$87(2)(6) while he was on the ground besides pulling his arms behind his back (Board Review 15, 06, 07, 16, 09). alleged that an officer struck him three times in the back of the head while he was on the ground, but could not describe the officer. None of the BWC footage captures an officer striking and none of the officers in this case admitted to nor witnessed an officer striking in the back of his head. However, the BWC is obscured and does not provide a clear view of what occurred. § 87(2)(g) Allegation I – Abuse of Authority: At the intersection of East 157th Street and River Avenue in the Bronx, Sergeant Tony Chacko threatened §87(2)(6) with the use of force. Allegation J – Abuse of Authority: At the intersection of East 157th Street and River Avenue in the Bronx, Sergeant Tony Chacko threatened an individual with the use of force. Sgt. Chacko's BWC footage, starting at the 02:05 mark of the timestamp visible at the bottom of the screen, shows that as officers were pulling \$87(2)(6) out of his car, Sgt. Chacko removed his taser, pointed it at \$87(2)(0) and stated repeatedly, "I gonna tase you in your face." At 02:22, Sgt. Chacko, who is standing in the middle of the street, turns around and faces an unidentified bystander who stands on the sidewalk, two sidewalk squares away from the street. Sgt. Chacko points his taser at the individual and states, "Back up please. Don't come forward." The individual takes a step back and Sgt. Chacko lowers his taser. On the ground, \$87(2)(6) the officers that his hand is behind his back. Sgt. Chacko tells saccord that his hand is not behind his back. At 02:34, Sgt. Chacko leans down, places his taser against the right side of head, and says again repeatedly, "I will tase you in your face." The light from Sgt Chacko's taser is seen illuminated against the side of \$87(2)(6) face. Once \$ 87(2)(b) handcuffed Sgt. Chacko stands up and removes the taser from \$87(2)(6) face (Board Review 08). PO Victoria's BWC, starting at the 04:20 mark of the timestamp visible at the bottom of the screen, shows the same moment from a different angle. §87(2)(6) left arm is seen underneath him tells the officers that his hands are behind his back (Board Review 13). while § 87(2)(6) statement was consistent with the BWC footage. He alleged that while on the ground, Sgt. Chacko placed his taser against \$87(2)(6) forehead and told him to stop resisting or he would taser him. [1870] told the officers that he could not move his left arm because they were on top of him preventing him from moving. The officers got up off \$87(2)(6) grabbed his left arm, and handcuffed his left wrist. \$50000 remained still the entire time the officers used force on him and did not attempt to defend himself nor did he resist the officers in anyway (Board Review 03).



Allegation K – Force: At § 87(2)(b) Police Officer Richard Delahanty used physical force against § 87(2)(b) There is no BWC footage of this portion of the incident as officers are prohibited from recording inside of hospitals. alleged that after he was handcuffed the officers took him to the stationhouse. While in the cells, § 87(2)(b) asked to go to the hospital. Officers called EMS who took § 87(2)(b) to § 87(2)(b) PO Delahanty and PO Victoria escorted \$87(2)(6) to the hospital. At the hospital, § 87(2)(b) was taken to an exam room. § 87(2)(b) was standing up and his shoulder was hurting, so he moved his shoulder in an attempt to relieve his pain. PO Delahanty in the face, causing his mouth to bleed. The officers sat § 87(2)(b) chair and PO Delahanty punched \$87(2)(b) in the testicles. \$87(2)(b) then became "disrespectful" and told the officers to "suck his dick." \$87(2)(6) threatened the officers and told them that when he got out, he would shoot them and shoot up the precinct. [87(2)(b) these statements because he was upset that the officers kept punching him. was uncooperative in providing a signed HIPAA form to the investigation, and thus his medical records could not be obtained (Board Review 03). provided a photo taken by § 87(2)(b) when § 87(2)(b) returned to the stationhouse after going to the hospital. The photo shows \$87(2)(b) being escorted by officers, including PO Delahanty and PO Victoria. \$87(2)(b) is seen wearing a mask that has a red mark on it (Board Review 20). Although attempts were made to secure surveillance footage as soon as possible, the Director of Security of § 87(2)(b) confirmed that the footage expired (Board Review 21). PO Delahanty denied striking \$87(2)(b) He testified that at the hospital, \$87(2)(b) velling and flailing his body because he had not been seen by a doctor yet. PO Delahanty and other to calm down. §87(2)(b) kept trying to pull down his mask. PO Delahanty pulled the mask up one time but stopped once he realized \$87(2)(b) back down with his mouth. PO Delahanty did not remember seeing any blood on \$37(2)(6) threatened to shoot up the precinct. He threatened to have his girlfriend take a picture of PO Delahanty and shoot him in the back of the head. PO Delahanty was disturbed by the specific nature of § 87(2)(b) threats, but did not respond to any of them other than telling him to calm down. PO Delahanty did not know why \$87(2)(6) fixated his threats specifically on him, but noticed § 87(2)(b) made multiple references to him being white. PO Delahanty did not remember § 87(2)(b) being forced to sit down or be moved to the corner of the waiting room. The hospital staff noticed § 87(2)(b) behavior and rushed to check his injuries. After he was cleared by the hospital staff, PO Delahanty drove \$87(2)(b) back to the precinct (**Board** Review 16). He testified that at the PO Victoria testified that PO Delahanty did not strike \$87(2)(b) hospital, they waited with \$87(2)(b) in a waiting room for a doctor. \$87(2)(b) wearing a facemask. § 87(2)(b) kept trying to rub his face against his shoulders to remove the facemask to spit and PO Victoria had to put \$872) mask back into place over his nose and continued to curse and was trying to spit and to kick. He was also yelling at PO Delahanty, saying to him "Imma kill you, white boy", "Cracker", "Faggot", "Suck my dick". PO Victoria did not know why \$87(2)(6) was upset with PO Delahanty specifically. Officers

to calm down and to stop resisting. § \$7(2)(b) was seated in a chair, which



Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which \$87000 and \$87000 have been a party (Board Review 22).
- PO Fernandez has been a member-of-service for 10 years and has been a subject in one additional CCRB complaint and two additional allegations, none of which were substantiated. §\$7000
- PO Gomez has been a member-of-service for 6 years and has been a subject in six additional CCRB complaints and nine additional allegations, one of which was substantiated
 - Case 201901152 involved a substantiated allegation of Discourtesy Word. The board recommended instructions and the NYPD imposed instructions.
- Sgt. Chacko has been a member-of-service for 13 years and has been a subject in four additional CCRB complaints and 12 additional allegations, two of which were substantiated.
 - Case 200909310 involved a substantiated allegation of Abuse Stop. The board assigned charges and the NYPD imposed instructions.
 - Case 201809767 involved a substantiated allegation of Discourtesy Word. In the case, the victim violated an order of protection. Sgt. Chacko told the victim, "You fucked up bro. Eat it," and, "You fucked up. It is what it is." The victim was upset that they were being arrested because they had a job interview. Sgt. Chacko responded, "Well guess what? Now you don't have a fucking job interview cause now I'm gonna add more shit to it so calm the fuck down." The board recommended formalized training and the NYPD imposed instructions.
- PO Delahanty has been a member-of-service for five years and has been a subject in three additional CCRB complaints and six additional allegations, one of which was substantiated.
 - Case 201807688 involved a substantiated allegation of Discourtesy word. The board recommended command level instructions and the NYPD imposed command level instructions.
 - Case 201807688 also contained an unsubstantiated allegation of Force –
 Physical Force. In the case, the civilian alleged that while in transport to
 central booking, the victim requested their medication repeatedly. PO
 Delahanty turned around in the vehicle and punched the victim in the face
 four or five times.
 - Case 201801598, which was closed pending litigation, involved an allegation that PO Delahanty punched the victim in the face two times and in his eye once.
 - Case 201808809, which was closed as complainant uncooperative, involved an allegation that during arrest processing, in front of the main desk of the stationhouse, PO Delahanty punched the victim in the face.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of July 23, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 23).

[§ 87(2)(b)] [§§ 86(1)(3)	&(4)] [§ 87(2)(c)]		
Squad No.:	06		
Investigator:	Inv. Thomas Juliano Signature		12/7/2021 Date
Squad Leader Signature	::Jessica Peña Print Title	IM Jessica Pena 12/92021 e & Name Date	